

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
BEAUFORT DIVISION

Robert Wahl, #263190,)	C.A. No. 9:04-2512-CMC-GCK
)	
Petitioner,)	
)	
v.)	ORDER
)	
Colie Rushton; and Henry McMaster,)	
Attorney General of the State of South)	
Carolina,)	
)	
Respondents.)	
_____)	

This matter is before the court on Petitioner's *pro se* petition seeking relief pursuant to 28 U.S.C. § 2254. Petitioner is currently confined in the South Carolina Department of Corrections pursuant to an order of commitment of the Lexington County Clerk of Court.

In accordance with the court's order of reference, 28 U.S.C. § 636(b), and Local Rule 73.02 (B)(2)(c), DSC, this matter was referred to United States Magistrate Judge George C. Kosko for pre-trial proceedings and a Report and Recommendation. On April 19, 2005, the Magistrate Judge issued a Report recommending summary judgment be granted in this matter. The Magistrate Judge advised Petitioner of the procedures and requirements for filing objections to the Report and Recommendation and the serious consequences if he failed to do so. On May 26, 2005, Petitioner filed untimely objections to the Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *See Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of any portion of the Report and Recommendation of the Magistrate Judge to which

a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b).

After reviewing the record of this matter, the applicable law, and the Report and Recommendation of the Magistrate Judge, the court agrees with the conclusions of the Magistrate Judge. Accordingly, the court adopts and incorporates the Report and Recommendation by reference in this Order. In his objections to the Report and Recommendation, Petitioner asserts that he should be appointed a lawyer and that a hearing should be held to examine his allegations. These contentions are not responsive to the extensive analysis that the Magistrate Judge has done in this case, and are accordingly **denied**.

IT IS THEREFORE ORDERED that Respondents' motion for summary judgment is **granted**.

IT IS SO ORDERED.

s/ Cameron McGowan Currie
CAMERON MCGOWAN CURRIE
UNITED STATES DISTRICT JUDGE

Columbia, South Carolina
June 14, 2005